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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,061	03/31/2004	Owen Ralph Baser	558.882	9624

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,061

Applicant(s)

BASER, OWEN RALPH

Examiner

Gary Estremsky

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 14-25 is/are allowed.
- 6) ☒ Claim(s) 12, 13, 26-30 and 32-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of invention of Group II, claims 1-34 readable thereon in the reply filed on 12/16/04 is acknowledged.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elected embodiment must be illustrated as including the subject matter of claims 12-14, and 25-28 or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of

Art Unit: 3676

the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 12, 13, and 26-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is not sufficient disclosure to allow one of ordinary skill in the art to make and use the embodiment of Fig 26 for example to include the features of claims 12 and 13 since those claimed structures are not illustrated or described with respect to the elected embodiment of the invention. The disclosure does not provide sufficient description and guidance to enable one of ordinary skill in the art to make and use an embodiment of the invention corresponding in scope with the claimed invention without further description and/or illustration.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 29, 30, and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 1,115,005 to Mortenson.

Mortenson '005 teaches Applicant's claim limitations including : a "door handle means" – including 4' and/or 13, "bolt means" – including 7, "actuator means" – including 5'8,11, "mounting means" – including 11, "fastener means" - particularly including the pivot for lever 4, "roller means" – including 8, "surface means" – including 5'. It is examiner's position that the means of the prior art performs the same function that are broadly set forth in the claim recitations and that one of ordinary skill in the art would consider the structure of the prior art to be equivalent to the structure disclosed by Applicant, especially noting the diverse structures that have been disclosed in the several embodiments corresponding to the recited functions.

As regards claims 30, 32, and 33, limitation of "coupled" is broad and does not require direct connection but is broad enough to allow for intermediate elements in a path connected via unspecified structural and/or functional arrangement.

As regards claim 34, Mortenson '005 discloses "spring means" – 9.

Allowable Subject Matter

7. Claims 1-11, and 14-25 are allowed.

Response to Arguments

8. Applicant's arguments have been fully considered but they are not persuasive. As regards the outstanding objections to the drawings, arguments that the latch of the elected embodiment can be used with other non-elected embodiments of the invention (that are illustrated to include features of the claims) are not persuasive where the fact remains; the elected embodiment of the invention is not illustrated as having the claimed features.

Furthermore in this case, it is examiner's position that the disclosure's broad statement (page 23; par 123) that the elected embodiment can be used with other non-elected embodiments and/or other door assemblies now existing or later developed is not sufficient disclosure to enable one of ordinary skill in the art to modify the structure of the elected embodiment to include the combination(s) of structures explicitly set forth in the claims without more specific guidance, description and/or illustration of the claimed combinations of structure, at least due to the structural and functional dissimilarities of the various embodiments. Assuming the elected embodiment of the invention has structure that can be read on the claims, it is suggested that the drawings be amended to include appropriate reference numerals and the written description amended to include reference thereto. Otherwise, Applicant's arguments that "cam 105" (or 256) provides enablement for claim features is not persuasive where that

Art Unit: 3676

structure is disclosed as part of a non-elected embodiment. It is examiner's position that the *elected embodiment* does not provide sufficient enablement for one of ordinary skill in the art to make and use *the claimed invention*.

Lastly regarding Applicant's arguments that modification of the elected embodiment (to include structures of the non-elected embodiment) would have been obvious to one of ordinary skill in the art, persuasive argument should not just point out various structures of the non-elected embodiments but should also identify suggestion, motivation, or other evidence that one of ordinary skill in the art would make the required modification and would have more than a reasonable expectation of success. Otherwise, it is examiner's position that structures set forth in the rejected (under 35 USC 112) claims are specific to the particular arrangement of the non-elected embodiments and contrary to the structure/function of the elected embodiment and that there is no explicit reason or motivation for one of ordinary skill in the art to pick and choose structures of the various embodiments and re-combine in such a way as to result in a device that functions the same as the elected embodiment, at least without more specific description and/or illustration.

Claims that are dependent from elected, generic claims but drawn to specific features of non-elected embodiments should be withdrawn and Applicant's Remarks should clearly state as much.

Art Unit: 3676

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

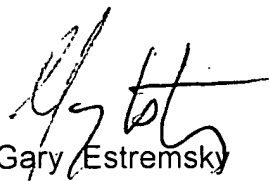
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3676

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky
Primary Examiner
Art Unit 3676